



Paper No. 48

COPY MAILED

OCT 07 2003

OFFICE OF PETITIONS

VINSON & ELKINS
1001 FANNIN STREET
2300 FURST CITY TOWER
HOUSTON TX 77002-6760

In re Application of:
Elledge et al.
Application No.: 09/122,384
Filed: July 24, 1998
Attorney Docket No.: BAY 136/4-010CIP

: NOTICE OF UNTIMELY
: PROTEST AND
: LETTER RETURNING THIRD
: PARTY PAPERS

The above-identified application has been referred to this office in view of a petition filed by a third party (Clontech) under 37 CFR 1.183 on May 20, 2003, to waive the rules to permit consideration of an accompanying protest under 37 CFR 1.291.

The aforementioned communication(s) acknowledges that such was filed subsequent to the mailing of a Notice of Allowance herein. In this circumstance, as noted in MPEP 1901.06, applicants are to be notified that an untimely protest has been filed, and further, where, as here, the untimely protest includes an indication of service on applicants, the original protest is to be discarded.

This letter serves as the requisite notice to applicants, and also serves to discard the aforementioned third party papers by way of returning them to the address of counsel who filed the aforementioned third party papers. The fees paid on behalf of the third party totaling \$260 are being credited to the deposit account of third party counsel.

Telephone inquiries regarding this letter may be addressed to the undersigned at (703) 305-1820.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

PATTON BOGGS LLP (for third party)
8484 WESTPARK DRIVE 9TH FLOOR
MCLEAN VIRGINIA 22102

Enclosure for cc: all third party papers filed May 20, 2003.